



PATENT

Case Docket No. GRTSTF.036A
Date: December 5, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|------------------|---|
| Applicant(s) : | Ramon A. Caamano |
| Appl. No. : | 10/801,163 |
| Filed : | March 8, 2004 |
| For : | GENERATOR FOR POWERING A REEL FROM A FLUID FLOW |
| Examiner : | Unknown |
| Group Art Unit : | 3748 |

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

December 5, 2005

(Date)


Sanjivpal S. Gill, Reg. No. 42,578

TRANSMITTAL LETTER

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-identified application are:

- (X) Petition to Correct Filing Date Under 37 C.F.R. § 1.183.
- (X) Copy of Applicant's Express Mail receipt.
- (X) Express Mail certificate of mailing.
- (X) Confirmation sheet printed from the United States Postal Service website.
- (X) Official Filing Receipt.
- (X) Applicant's Request for Corrected Filing Receipt.
- (X) The Office's Response to Request for Corrected Filing Receipt.
- (X) Declaration of Carol Ann Macarty.
- (X) Ms. Macarty's logsheet from March 5, 2004.
- (X) Petition to Correct Filing Date Under 37 C.F.R. § 1.181, filed November 9, 2004.

PATENT

Case Docket No. GRTSTF.036A
Date: December 5, 2005

- (X) Decision on Petition under 37 C.F.R. § 1.10(c), mailed by the Office of Petitions on October 5, 2005.
- (X) Email from the USPS, indicating that the application corresponding to Express Mail No. EV 319028732 US was accepted by the USPS in San Francisco on March 5, 2004, at 4:46pm.
- (X) \$400 fee under 37 C.F.R. § 1.17(f).
- (X) The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 11-1410.
- (X) Return prepaid postcard.


Sanjivpal S. Gill
Registration No. 42,578
Attorney of Record
Customer No. 20,995
(415) 954-4114

2166412
120505

DAC/DPW

GRTSTF.036A



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Raymond A. Caamaño
 Appl. No. : 10/801,163
 Filed : March 8, 2004
 For : GENERATOR FOR POWERING
 A REEL FROM A FLUID FLOW
 Examiner : Unknown
 Group Art Unit : 3748

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

December 5, 2005

(Date)

Sanjivpal S. Gill, Reg. No. 42,578

PETITION TO CORRECT FILING DATE UNDER 37 C.F.R. § 1.183

Mail Stop Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully petitions to correct the filing date of the above-captioned application.

12/07/2005 NNGUYEN1 00000060 10801163

01 FC:1462

400.00 OP

STATEMENT OF FACTS

The attorneys for the assignee of this application, Great Stuff, Inc., mailed the above-captioned application by Express Mail on March 5, 2004. The Express Mail number for the application package was EV 319028732 US. The official filing receipt shows a filing date of March 8, 2004.

On August 6, 2004, the attorneys filed a Request for Corrected Filing Receipt. On September 13, 2004, the Office mailed a Response to Request for Corrected Filing Receipt, in which the Office indicated that a Petition to correct the filing date should be submitted.

On November 9, 2004, Applicant filed a Petition to Correct Filing Date under 37 C.F.R. § 1.181, which the Office treated as a petition under 37 C.F.R. § 1.10(c). In support of the petition, Applicant submitted a confirmation sheet printed from the United States Postal Service (USPS) website (<http://www.usps.com/shipping/trackandconfirm.htm>), which shows that the

Appl. No. : 10/801,163
Filed : March 8, 2004

package corresponding to Express Mail no. EV 319028732 US was accepted by the USPS on March 5, 2004 and delivered to the Patent Office on March 8, 2004. Applicant did not submit a copy of the Express Mail mailing label.

On October 5, 2005, the Office of Petitions mailed a Decision on Petition under 37 C.F.R. § 1.10(c), indicating in substance that Applicant's first petition was dismissed for failure to submit a copy of the Express Mail mailing label as required by 37 C.F.R. § 1.10(c)(3). The Decision indicates that checks of both the Office's USPS Express Mail Finder Database computer program and the USPS website were inconclusive. With regard to the latter, the Decision indicates that the USPS website now states that the information pertaining to this Express Mail label number is stored off-line. However, the Decision further states:

“However, Petitioner has enclosed a print-out from this same website, presumably from prior to the information being taken off-line. This print-out shows an entry of ‘Acceptance, March 05, 2004, 4:46 pm, San Francisco, CA 94111.’ Thus, ***it is clear that the USPS was in possession of this package on this date.***”

Decision on Petition under 37 C.F.R. § 1.10(c), p. 2 (emphasis added). Accordingly, the Decision **admits** that the application was properly filed on March 5, 2004. The Decision expressly invites Applicant to file a petition under 37 C.F.R. § 1.183 to request that the Office waive 37 C.F.R. § 1.10(c)(3).

A check of the USPS website shows that the mailing information for Express Mail No. EV 319028732 US (which is shown in the confirmation sheet originally submitted to the Office) can be obtained via email, simply by entering the Express Mail number and a valid email address into appropriate fields within the website, notwithstanding the fact that the information is stored off-line. Applicant invites the Office to obtain an email from the USPS with the mailing information for this Express Mail number. In any case, Applicant's attorney Sonny Gill (same as undersigned) has obtained such an email, a copy of which is enclosed herewith.

DOCUMENTS ENCLOSED

Enclosed herewith are copies of:

Appl. No. : 10/801,163
Filed : March 8, 2004

- (1) Applicant's Express Mail receipt for the application showing Express Mail no. EV 319028732 US. This copy is of the receipt prior to processing by the Post Office. Applicant is not in possession of the processed receipt.
- (2) Express mail Certificate of Mailing for the application, again showing Express Mail no. EV 319028732 US and dated March 5, 2004.
- (3) A confirmation sheet printed from the USPS website. The sheet shows that the package corresponding to Express Mail no. EV 319028732 US was accepted by the Postal Service on March 5, 2004 and delivered to the Patent Office on March 8, 2004.
- (4) The Official Filing Receipt showing a filing date of March 8, 2004.
- (5) Applicant's request for a corrected filing receipt received August 6, 2004.
- (6) The Office's response to Request for Corrected Filing Receipt mailed September 13, 2004.
- (7) Declaration of Carol Ann Macarty, the attorneys' U.S. docketing agent.
- (8) Ms. Macarty's logsheet from March 5, 2004.
- (9) Applicant's Petition to Correct Filing Date under 37 C.F.R. § 1.181, filed November 9, 2004.
- (10) Decision on Petition under 37 C.F.R. § 1.10(c), mailed by the Office of Petitions on October 5, 2005.
- (11) Email from the USPS, indicating that the application corresponding to Express Mail No. EV 319028732 US was accepted by the USPS in San Francisco on March 5, 2004, at 4:46 pm.

POINTS TO BE REVIEWED

Under 37 C.F.R. § 1.10(a)(1), any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the USPS will be considered filed with the USPTO on the date of deposit with the USPS. "The date of deposit with the USPS is shown by the 'date in' on the 'express mail' label *or other official USPS notation.*" 37 C.F.R. § 1.10(a)(2) (emphasis added).

In this case, the enclosed confirmation sheet from the USPS website clearly shows that the application, which was filed under Express Mail no. EV 319028732 US, was deposited with

Appl. No. : 10/801,163
Filed : March 8, 2004

the USPS on March 5, 2004. Applicant respectfully submits that the confirmation sheet from the USPS website is "other official USPS notation" within the meaning of 37 C.F.R. § 1.10(a)(2).

In relevant part, 37 C.F.R. § 1.183 states "In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, ... on petition of the interested party, subject to such other requirements as may be imposed."

ACTION REQUESTED

Applicant respectfully requests that the Official Filing Receipt be corrected to reflect the true filing date of March 5, 2004. In this case, it is clear that Applicant's attorneys' agent deposited the application at the USPS Post Office by the Express Mail Post Office to Addressee service of the USPS on March 5, 2004. Notwithstanding the requirement to submit a copy of the Express Mail label under 37 C.F.R. § 1.10(c)(3), the enclosed confirmation sheet from the USPS website and the enclosed email from the USPS together comprise "other official USPS notation" within the meaning of 37 C.F.R. § 1.10(a)(2). Thus, under 37 C.F.R. § 1.10(a)(1), the Office should consider this application as being filed on March 5, 2004.

Alternatively, under 37 C.F.R. § 1.183, Applicant respectfully requests that the requirements of 37 C.F.R. § 1.10(c)(3) be suspended or waived by the Director or the Director's designee. The petition fee set forth in 37 C.F.R. § 1.17(f) is enclosed herein.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

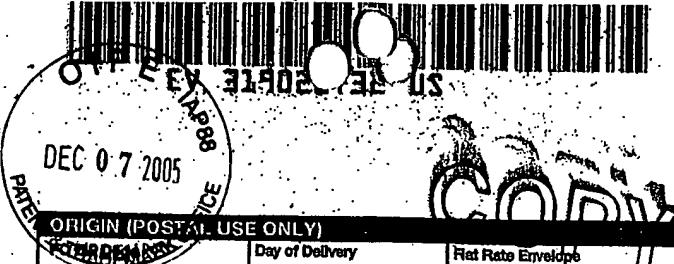
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 12/5/05

By: Sanjivpal S. Gill
Sanjivpal S. Gill
Registration No. 42,578
Attorney of Record
Customer No. 20,995
(415) 954-4114

2080082
112105



Mailing Label
Label 11-F June 2002



UNITED STATES POSTAL SERVICE®

Post Office To Addressee

ORIGIN (POSTAL USE ONLY)

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|---|----------------------------------|----------------------------------|----------------------|
| Day of Delivery | <input type="checkbox"/> Next | <input type="checkbox"/> Second | Flat Rate Envelope |
| Date In | Postage | | |
| Mo. Day Year | <input type="checkbox"/> 12 Noon | <input type="checkbox"/> 8 PM | \$ |
| Time In | Military | | |
| <input type="checkbox"/> AM <input type="checkbox"/> PM | <input type="checkbox"/> 2nd Day | <input type="checkbox"/> 3rd Day | Return Receipt Fee |
| Weight | Int'l Alpha Country Code | | COD Fee |
| lbs. ozs. | | | Insurance Fee |
| No Delivery | Acceptance Clerk Initials | | Total Postage & Fees |
| <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday | | | \$ |

CUSTOMER USE ONLY

METHOD OF PAYMENT:

Express Mail Corporate Acct. No.

4926976

DELIVERY (POSTAL USE ONLY)

| | | |
|------------------|---|--------------------|
| Delivery Attempt | Time | Employee Signature |
| Mo. Day | <input type="checkbox"/> AM <input type="checkbox"/> PM | |
| Delivery Attempt | Time | Employee Signature |
| Mo. Day | <input type="checkbox"/> AM <input type="checkbox"/> PM | |
| Delivery Date | Time | Employee Signature |
| Mo. Day | <input type="checkbox"/> AM <input type="checkbox"/> PM | |

Federal Agency Acct. No. or
Postal Service Acct. No.

FROM: (PLEASE PRINT)

PHONE 949-760-0404

KNODGE, MARTENS,
OLSON & BEAR LLP
26401 MAIN ST. FL 14
IRVINE

CA 92614-7218

L GRISTF 036A

DKJ

TO: (PLEASE PRINT)

PHONE

PATENT Application
COMMISSIONER FOR TRADEMARKS
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ARLINGTON VA 22202-3514

PRESS HARD.

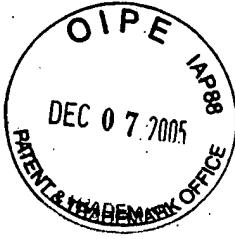
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Sonny S. Gill
415-217-8399
sgill@kmob.com

MAIL STOP PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

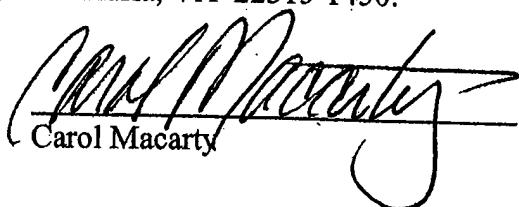
CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Attorney Docket No. : GRTSTF.036A
Applicant(s) : Ramon A. Caamano
For : GENERATOR FOR POWERING A REEL
FROM A FLUID FLOW
Attorney : Sanjivpal S. Gill
"Express Mail"
Mailing Label No. : EV 319028732 US
Date of Deposit : March 5, 2004

I hereby certify that the accompanying

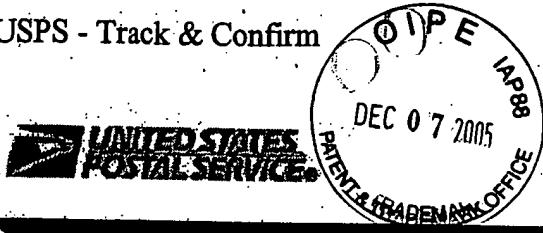
Transmittal letter; specification in 17 pages; 4 sheets of drawings; **SIGNED**
Declaration and Power of Attorney in 1 page; Recordation Form Cover Sheet and
Assignment in 2 pages; Power of Attorney by Assignee and copy of Assignment
in 3 pages; Check for Filing Fees; Return Prepaid Postcard

are being deposited with the United States Postal Service "Express Mail Post Office to
Addressee" service under 37 CFR 1.10 on the date indicated above and are addressed to the
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Carol Macarty

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030504

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Track & Confirm

Shipment Details

You entered EV31 9028 732U S

Your item was delivered at 11:14 am on March 08, 2004 in ARLINGTON, VA 22202 to US PATENT 2900. The item was signed for by D BARFIELD.

Here is what happened earlier:

- NOTICE LEFT, March 07, 2004, 9:16 am, ARLINGTON, VA 22202
- ARRIVAL AT UNIT, March 07, 2004, 9:06 am, ARLINGTON, VA 22210
- ENROUTE, March 06, 2004, 4:51 pm, DULLES, VA 20102
- ENROUTE, March 05, 2004, 7:20 pm, SAN FRANCISCO, CA 94125
- ACCEPTANCE, March 05, 2004, 4:46 pm, SAN FRANCISCO, CA 94111

Notification Options

► Request Proof of Delivery

[What is this?](#)

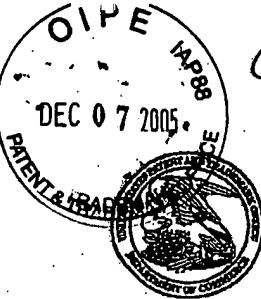
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www.uspto.gov

| APPL NO. | FILING OR 371 (C)-DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|------------|---------------------------|----------|---------------|----------------|----------|----------|----------|
| 10/801,163 | 03/08/2004 | 3748 | 568 | GRTSTF.036A | 4 | 26 | 6 |

CONFIRMATION NO. 1042

FILING RECEIPT



OC000000012829907

Date Mailed: 06/01/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt Incorporating the requested corrections (if appropriate).

Applicant(s)

Ramon A. Caamano, San Carlos, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/31/2004

Projected Publication Date: 09/08/2005

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Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Generator for powering a reel from a fluid flow

Preliminary Class

403

060

COPY

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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GRTSTF.036A



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-----------|---|---|---------------------|
| Applicant | : | Ramon A. Caamano | Group Art Unit 3748 |
| Appl. No. | : | 10/801,163 | |
| Filed | : | March 5, 2004 | |
| For | : | GENERATOR FOR POWERING A REEL FROM A FLUID FLOW | |
| Examiner | : | Unknown | |

REQUEST FOR CORRECTED FILING RECEIPT

Commissioner for Patents
P.O. Box 1450
Office of Initial Patent Examination
Customer Service Center
Alexandria, VA 22313-1450

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Dear Sir:

Applicants hereby request that the Official Filing Receipt, a copy of which is enclosed, be corrected to reflect the true filing date of March 5, 2004. Presently, the Filing Receipt incorrectly shows the filing date as March 8, 2004. Attached is a copy of the Express Mail Receipt identifying Express Mail package no. EV 319028732 US. Also attached is a copy of the Express Mail Certificate of Mailing mailed with the patent application and signed by Carol Macarty on March 5, 2004 and a confirmation sheet from the United States Postal Service website, both identifying Express Mail package no. EV 319028732 as being mailed on March 5, 2004.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 8/6/04

By: Sanjivpal S. Gill

Sanjivpal S. Gill
Registration No. 42,578
Attorney of Record
Customer No. 20,995
(415) 954-4114



6RTSTF. 03 ^{mk}
ASA | JXV | 556

Page 1 of 2

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING OR 371(c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-----------------------|-----------------------|------------------------|
| 10/801,163 | 03/08/2004 | Ramon A. Caamano | GRTSTF:036A |

20995

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614



OC000000013777770

CONFIRMATION NO. 1042

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Date Mailed: 09/13/2004

RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

Application Filing Date

In response to your request for a corrected Filing Receipt, the Office cannot comply with your request because:

- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, a petition to accord a filing date should be submitted along with a copy of the Express Mail label showing the "date in" and be directed to the Office of Petitions.
- A copy of the Express Mail label was not enclosed with your request. Petitions under 37 CFR 1.10 require a copy of the Express Mail Label to be submitted.
- The "date in" on the Express Mail label is the date given on the Filing Receipt.
- The filing date accorded to the application is the date the application met the filing date requirements of 37 CFR 1.53(b) or (c).
- Applications submitted with a certificate of mailing under 37 CFR 1.8 are accorded a filing date as of the date the application is received in the U.S. Patent and Trademark Office. A request to review the filing date accorded to the application must be in the form of a petition.
- The filing date on your return postcard is the same as the date on your Filing Receipt. A request to review the filing date accorded to the application must be in the form of a petition.

A petition under 37 CFR 1.10, 37 CFR 1.53 or 37 CFR 1.182 is needed to request a change to the filing date. A \$130 petition fee is required for a petition under 1.53 or 1.182. If you choose to file a petition, the petition and the \$130 petition fee, if any, to:

Box DAC

Washington, DC 20231

PPMC
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | | |
|-----------|---|---|---|---------------------|
| Applicant | : | Ramon A. Caamano |) | Group Art Unit 3748 |
| Appl. No. | : | 10/801,163 |) | |
| Filed | : | March 5, 2004 |) | |
| For | : | GENERATOR FOR POWERING A REEL FROM A FLUID FLOW |) | |
| Examiner | : | Unknown |) | |

Declaration of Carol Ann Macarty

United States Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

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Dear Sir:

I, Carol Macarty, U.S. Docketing Agent for Knobbe, Martens, Olson & Bear, LLP (the "Firm"), which is patent counsel for Great Stuff, Inc., the assignee of the present application, hereby declare under oath the following:

On March 5, 2004 I signed the Express Mail stamp and walked the package to the Post Office. The Firm's standard procedure for processing outgoing filings is to write the client code on the Docketing Log Sheet. I have enclosed a copy of the Log Sheet showing the filing date of March 5, 2004.

I have also enclosed copies of the filing showing the date of March 5, 2004.

I hereby declare that all statements made herein of my own knowledge are true, and all statements made on information and belief herein are believed to be true and are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such

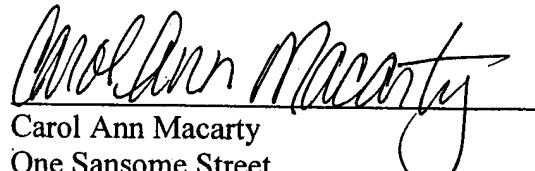
willful false statement may jeopardize the validity of this application or any granting of the application resulting therefrom.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: November 9, 2004

By:



Carol Ann Macarty
One Sansome Street
Suite 3500
San Francisco, CA 94104

W:\DOCS\CAS\CAS-1105.DOC
110904

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QC LOG Knobbe, Martens, Olson & Bear LLP San Francisco ***QC LOG***

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| Date | Time | Client Code | Filing | Atty/Asst | After-hours Explanation |
|------|-------|------------------|-----------------------|--------------|-------------------------|
| 3/5 | 11:50 | ASMNNT. 057AUS | 1DS | ASB/ink | |
| " | " | " 042AUS | " | " | |
| " | " | " 049AUS | " | " | |
| " | 3:40 | GRTSF. 036A | Application | DST/TK | |
| 3/8 | 12:25 | ASMNNT. 031CPY | 1DS | ASB/ink | |
| 3/8 | 1:16 | MICRON. 262A | Rep. Miss Pats / 1DS | ASB/ink/pon. | |
| " | 1:50 | NEDER 31. 071CPY | 1DS | ASB/ink | |
| " | " | NEDER 32. 071APC | " | " | |
| 3/8 | 3:14 | ASMNNT. 052AUS | Rep. to Missing Pats. | EAL/JON. | |
| 3/8 | 4:08 | Dantek. 015DA | 1DS | DST/TK | |
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| | | | | 019 DA | |
| | | | | 020 DA | |

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GRTSTF.036A



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Ramon A. Caamaño
Appl. No. : 10/801,163
Filed : March 8, 2004
For : GENERATOR FOR POWERING
A REEL FROM A FLUID FLOW
Examiner : Unknown
Group Art Unit : 3748

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

November 9, 2004

(Date)


Sajivpal S. Gill, Reg. No. 42,578

PETITION TO CORRECT FILING DATE UNDER 37 C.F.R. § 1.181

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

Applicant respectfully petitions to correct the filing date of the above-captioned application.

Statement of Facts

The attorneys for the assignee of this application, Great Stuff, Inc., mailed the above-captioned patent application by Express Mail on March 5, 2004. The Express Mail No. for the application package was EV 319028732 US. The Official Filing Receipt shows a filing date of March 8, 2004.

On August 6, 2004, the attorneys filed a Request for Corrected Filing Receipt. On September 13, 2004, the Office mailed a Response to Request for Corrected Filing Receipt, in which the Office indicated that a petition to accord a filing date should be submitted. The present petition is being submitted accordingly.

Enclosed herewith are copies of:

Appl. No. : 10/801,163
Filed : March 8, 2004

1. Applicant's Express Mail receipt for the application, showing Express Mail No. EV 319028732 US. This copy is of the receipt prior to processing by the post office. Applicant is not in possession of the processed receipt.
2. The Express Mail certificate of mailing for the application, again showing Express Mail No. EV 319028732 US, and dated March 5, 2004.
3. A confirmation sheet printed from the United States Postal Service website. This sheet shows that the package corresponding to Express Mail No. EV 319028732 US was accepted by the Postal Service on March 5, 2004 and delivered to the Patent Office on March 8, 2004.
4. The Official Filing Receipt, showing a filing date of March 8, 2004.
5. Applicant's Request for Corrected Filing Receipt, filed August 6, 2004.
6. The Office's Response to Request for Corrected Filing Receipt, mailed September 13, 2004.
7. Declaration of Carol Ann Macarty, the attorneys' U.S. docketing agent.
8. Ms. Macarty's log sheet for March 5, 2004.

Points to Be Reviewed

Under 37 C.F.R. § 1.10(a)(1), any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS. "The date of deposit with USPS is shown by the 'date in' on the 'Express Mail' label *or other official USPS notation.*" 37 C.F.R. § 1.10(a)(2) (emphasis added).

In this case, the enclosed confirmation sheet from the USPS website clearly shows that the application, which was filed under Express Mail No. EV 319028732 US, was deposited with the USPS on March 5, 2004. Applicant respectfully submits that the confirmation sheet from the USPS website is "other official USPS notation" within the meaning of 37 C.F.R. § 1.10(a)(2).

Appl. No. : 10/801,163
Filed : March 8, 2004

Action Requested

Applicant respectfully requests that the Official Filing Receipt be corrected to reflect the true filing date of March 5, 2004.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11/9/04

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OCT 05 2005

OFFICE OF PETITIONS

In re Application of Ramon A. Caamano :
Application No. 10/801,163 :
Filing Date: March 8, 2004 :
Attorney Docket Number: GRTSTF:036A :
Title of Invention: GENERATOR FOR POWERING A REEL FROM A FLUID FLOW :
: DECISION ON PETITION UNDER 37 C.F.R. §1.10(C) :
: BEST AVAILABLE COPY

BACKGROUND

This is a decision on the petition filed November 12, 2004, under 37 C.F.R. §1.181, which is properly treated as a petition under 37 C.F.R. §1.10(c), requesting that the above-identified application be accorded a filing date of March 5, 2004.

The Office regrets the delay in issuing this decision.

Shortly after the above-identified application was received in the Office, the Office of Initial Patent Examination mailed Petitioner's filing receipt, indicating that the application had been accorded a filing date of March 8, 2004.

Petitioner has alleged that the application was deposited on March 5, 2004, and the Patent Office has incorrectly assigned a filing date of March 8, 2004 to the instant application. Petitioner has set forth that this application was sent to the Office via the "Express Mail Post Office to Addressee" service of

the United States Postal Service (USPS), and that Express Mail label EV319028732US¹ was associated with this mailing. It is further noted that Petitioner has not included a copy of the Express mail label with his petition - Petitioner has set forth that he is not in possession of the processed receipt².

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (<<http://www.usps.com/shipping/trackandconfirm.htm>>) was also inconclusive, in that it stated that the information pertaining to this Express Mail label number is stored off-line.

However, Petitioner has enclosed a print-out from this same website, presumably from prior to the information being taken off-line. This print-out shows an entry of "Acceptance, March 05, 2004, 4:46 pm, San Francisco, CA 94111." Thus, it is clear that the USPS was in possession of this package on this date.

THE RELEVANT PORTION OF THE MPEP

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail" sets forth, in part:

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

[48 FR 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 FR 4285, Jan. 31, 1983, paras. (a) & (c), 49 FR 552, Jan. 4, 1984, effective Apr. 1, 1984;

¹ It is noted that this same Express Mail number appears on the Utility Application Transmittal Sheet, which has been located in the electronic file.

² Petition, page 2.

paras. (a)-(c) revised and paras. (d) - (f) added, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 67 FR 36099, May 23, 2002, effective June 24, 2002; paras. (c), (d), (d)(3), (e) & (e)(4) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(1) revised, 68 FR 48286, Aug. 13, 2003, effective Sept. 12, 2003]

ANALYSIS

37 C.F.R. §1.10(c)(3) requires that any petition under this section of the C.F.R. include a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit. Since it does not appear that a copy of the express mail label has been included, this petition cannot be granted.

If a true copy of the Express Mail label cannot be obtained, Petitioner may wish to consider filing a petition under 37 C.F.R. §1.183 to request that the Office waive 37 C.F.R. §1.10(c)(3).

CONCLUSION

Therefore, this petition is **DISMISSED**.

The filing date will remain March 8, 2004.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.


Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Sonny Gill



From: U.S. Postal Service [U.S._Postal_Service@usps.com]
Sent: Monday, December 05, 2005 12:17 PM
To: sgill@kmob.com
Subject: U.S. Postal Service Track & Confirm email Restoration - EV31 9028 732U S

This is a post-only message. Please do not respond.

Sonny Gill has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: EV31 9028 732U S

Service Type: Express Mail - Post Office to Addressee

| Shipment Activity | Location | Date & Time |
|-------------------|------------------------|------------------|
| Delivered | ARLINGTON VA 22202 | 03/08/04 11:14am |
| Notice Left | ARLINGTON VA 22202 | 03/07/04 9:16am |
| Arrival at Unit | ARLINGTON VA 22210 | 03/07/04 9:06am |
| Enroute | DULLES VA 20102 | 03/06/04 4:51pm |
| Enroute | SAN FRANCISCO CA 94125 | 03/05/04 7:20pm |
| Acceptance | SAN FRANCISCO CA 94111 | 03/05/04 4:46pm |

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at <http://www.usps.com/shipping/trackandconfirmfaqs.htm>

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